Mr Justice Swayne

463

Map

SUPREME COURT OF THE UNITED STATES.

No. ~~295~~. 184. 119.

THE UNITED STATES, APPELLANTS,

vs.

WILLIAM S. JOHNSON AND PRESTON K. WOODSIDE.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

GOVERNMENT PRINTING OFFICE.

443.

SUPREME COURT OF THE UNITED STATES.

No. 295.

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vs.

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TRANSCRIPT OF THE PROCEEDINGS IN CASE NO. 567.

W. S. JOHNSON *et al.*, claimants,
vs.
THE UNITED STATES, defendant.
} For the place named "Pleyto."

2 *Office of the board of commissioners to ascertain and settle the private land claims in the State of California.*

Be it remembered, that on this ninth day of February, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of W. S. Johnson *et al.*, for the place named "Pleyto," was presented, and ordered to be filed and docketed with No. 567, and is as follows, to wit:

(*Vide* page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *February* 16*th*, 1853.

In case No. 567, Wm. S. Johnson, for the place named "Pleyto," the deposition of Mariano Soberanes, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with documents marked H. H., Nos. 1 and 2, annexed thereto, was filed.

(*Vide* page 11 of this transcript.)

SAN FRANCISCO, *October* 8, 1853.

In the same case, the deposition of William E. P. Hartnell, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, with document marked A. F., No. 3, annexed thereto, was filed.

(*Vide* page 7 of this transcript.)

SAN FRANCISCO, *November* 5, 1853.

In the same case, the deposition of Feliciano Soberanes, a witness on behalf of the claimants, taken before Commissioner R. Aug. Thompson, was filed.

(*Vide* page 13 of this transcript.)

3 SAN FRANCISCO, *December* 5*th*, 1854.

Case No. 567 was submitted without argument and taken under advisement by the board.

SAN FRANCISCO, *March* 6, 1855.

In the same case, Commissioner S. B. Farwell delivered the opinion of the board, rejecting the claim.

(*Vide* page 47 of this transcript.)

[Rec. ccxcv, D. T. 1861.]—

And the following order was made to wit:

(*Vide* page 51 of this transcript.)

4 *Petition.*

To the board of commissioners for ascertaining and settling private land claims in the State of California:

The petition of William S. Johnson and Preston K. Woodsides, of Monterey county, California, respectfully represents: That on or about the 23d of June, 1845, Antonio Chaves, a citizen of Mexico, and a resident of the city of Monterey, petitioned the governor of Upper California, Pio Pico, for a grant of a tract or parcel of land called Pleyto, near the Mission of San Antonio, and which said land was vacant and of the extent of three square leagues, a little more or less, and bounded on the west by the first pass of the river, the boundary of Don Mariano Soberanes's land, and in the opposite direction by the Nacimiento, and by the two remaining sides without prejudice to private property, and according to a map which accompanied said petition.

That on the 18th of July, 1845, the said Governor Pio Pico granted to the said Antonio Chaves the said tract of land called Pleyto, bounded by the lands of Mariano Soberanes, the Nacimiento, and vacant lands, of the extent of three square leagues, as described in the said petition, and delineated and explained by the said map accompanying the said petition.

That on or about the 18th of August, 1845, the said (José) Antonio Chaves conveyed to Thomas Soberanes, of California, all his right, title, and interest in and to the said tract or parcel of land called Pleyto, granted as aforesaid.

That, about the year 1848, the said Thomas Soberanes died in California intestate, and that, being unmarried, his title in and to said tract of land called Pleyto, granted and conveyed as aforesaid, ascended to and was inherited by his father, Mariano Soberanes, of Monterey county, California.

That on or about the 14 of February, 1850, the said Mariano Soberanes conveyed to his son (Thomas) Guadelupe Soberanes the said tract of land called Pleyto, granted and conveyed and inherited as aforesaid.

5 That on or about the 24th of September, 1851, the said (Thomas) Guadelupe Soberanes sold and conveyed to your petitioners the said tract of land called Pleyto for a valuable consideration, and that on the 21st of October, 1851, the said Thomas Guadelupe Soberanes made and delivered another deed of conveyance to your petitioners of the said tract of land called Pleyto, which last deed was made to correct the recital of the intermediate transfers from the orignal grantee, Antonio Chaves, to him the said Thomas Guadelupe Soberanes, and in explanation of the first that Guadelupe Soberanes, the grantee of Mariano Soberanes, was named Thomas Guadelupe Soberanes, as written in said last deed of conveyance to your petitioners. Copies of the original grant of Governor Pio Pico to

Antonio Chaves, of the conveyance of Antonio Chaves to Thomas Soberanes, of Mariano Soberanes (the father who inherited from his son Thomas, deceased, intestate) to his son Thomas Guadelupe Soberanes, (with translations,) and of Thomas Guadelupe Soberanes to your petitioners, are herewith presented; also a duly certified copy of original expediente and map remaining on file and in charge of Sam. D. King, surveyor general of California, with translations.

The premises considered, your petitioners pray that the said grant of three leagues of land called Pleyto, lying and being in the county of Monterey, California, and granted by Governor Pio Pico to Antonio Chaves, as aforesaid, may be confirmed, and that they have a decree in their favor and general relief, as in duty bound.

(Signed) P. ORD,
Att'y for Petitioners.

Filed in office February 9, 1853.
(Signed) GEO. FISHER, *Sec'y.*

6 *Deposition of W. E. P. Hartnell.*

OFFICE OF THE BOARD OF COMMISSIONERS, &c., &c.

This day, before Com'r Alpheus Felch, came W. E. P. Hartnell, a witness in behalf of the claimant, W. S. Johnson *et al.*, No. 564, who, after being duly sworn, deposed follows:

Questions by Mr. Crittenden, att'y for claimant:

1st question. What are your name, age, and place of residence?

Answer. My name is William E. P. Hartnell; my age, fifty-five years; and residence, Monterey, in California.

2d question. Do you know the rancho called "Pleyto;" if yea, how long have you known it; where is it situated?

Answer. I know the rancho; it is situated south of the Mission San Antonio, and about thirty leagues south of Monterey; I have known the place since about the year 1824.

3d question. Do you know of the occupancy of that rancho by Antonio Chavis, or any of the family of Soberanes; if yea, during what time?

Answer. It was occupied by the brothers Soberanes; the name of one of them was Guadelupe; the name of the other I do not recollect; the brothers lived in the house on the place, and had a store in the house, and had cattle and horses there; they were living on it, to the best of my recollection, about the year 1846.

4th question. Were you acquainted with Mariano Soberanes and his family?

Answer. I knew them well.

7 5th question. What relation was he to Guadelupe Soberanes and to Thomas Soberanes?

Answer. He was their father.

6th question. Is Thomas Soberanes living?

Answer. He is dead; he died about four or five years ago, I think.

7th question. Did he leave a widow, or any children?

Answer. He was never married.

8th question. Are you acquainted with the signature of Mariano Soberanes?

Answer. Perfectly well.

9th question. Look on the document now here presented to you, and marked Exhibit No. 3, with the initials A. F., purporting to be a conveyance from Mariano Soberanes to Guadelupe Soberanes, dated February 14, 1850, and annexed to this deposition, and state whether the signature appearing thereon as that of said Mariano Soberanes is his true and genuine signature.

Answer. I have examined said document, and said signature is the true and genuine signature of said Mariano Soberanes.

Question by Mr. Greenhow, associate law agent:

1st question. Did Antonio Chavis ever occupy said land?

Answer. I believe that he did, but I never saw him in actual possession.

8 2d question. Was there any house on the land at the time when you first knew it?

Answer. There was; it was the same house afterwards occupied by the brothers Soberanes; I do not know that Chavis ever built any house on the land.

Questions by Mr. Crittenden:

1st question. Was there more than one house on the land before Chavis or the Soberanes went on to it?

Answer. I think there was a building used as a cook house, separate from the main building.

2d question. Is the first ford or pass of the San Antonio a well known place?

Answer. It is a well known place.

Question by Mr. Greenhow:

1st question. Was the building above mentioned occupied when you first knew the place; if yea, by whom?

Answer. The building when I first knew the place was used by the priests of the Missions of San Antonio and San Miguel, where they met together for the purpose of confession, and was frequently used as a resting place; when the missions were given up, the house was abandoned.

(Signed) W. E. P. HARTNELL.

Subscribed and sworn to before me, at San Francisco, this eighth day of October, A. D. 1853.

(Signed) ALPHEUS FELCH, *Com'r.*

Filed in office October 8, 1853.

(Signed) GEO. FISHER, *Sec'y.*

9 *Deposition of Mariano Soberanes.*

SAN FRANCISCO, *February* 16, 1853.

On this day, before Commissioner Hiland Hall, came Mariano Soberanes, a witness produced in behalf of the claimant, W. S. Johnson

et al., petition No. 576, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

Quest. 1. What is your name, age, place of residence, and occupation?

Answer. My name, Mariano Soberanes; my age is fifty-nine years; and I reside in the county of Monterey.

Quest. 2d. Being shown a document, marked H. H. No. 1, and hereto annexed, was asked whether he knew the signatures of Pio Pico and José Ma. Covarrubias upon said documents, and if he had seen the said Pio Pico and José Ma. Covarrubias write, and if the signatures upon said document were true and genuine?

Ans. I know their signatures; have seen them write, and believe their signatures on said document to be genuine.

Quest. 3. Being shown document marked H. H. No. 2, and hereto attached, was asked whether he knew the signatures of Francisco Araiza, José A. Chavis, Ambrosia Gomez, and Igno. Esqur, and if he had seen the above-named persons write, and if their signatures upon said document were true and genuine?

Answer. I am acquainted with the signatures of the said several persons, and believe their signatures on said document to be genuine.

Ques. 4. Do you know the rancho of Pleyto, in Monterey county; and do you know when it was occupied—by whom; and whether any improvements have been made upon said rancho?

Answer. I know the rancho; it was first occupied by Chavis, who sold it to one of my sons, named Tomas Soberanes; he died, leaving no children, and I was his heir, and I made a present of it to my son Guadelupe, and he sold it; I occupied it under Chavis, with cattle; he had a house on it occupied by some Indians, who cultivated some ground; my son Tomas occupied it with cattle until his death in the year 1849.

In answer to question by the associate law agent, the witness says: That Chavis did not occupy the land before the grant; the house was built before the grant by the Mission of San Antonio; my son Tomas did not own any land at the time he bought this.

(Signed) MNO. SOBERANES.

Sworn and subscribed before me.

(Signed) HILAND HALL, *Com'r.*

Filed in office February 16, 1853.

(Signed) GEO. FISHER, *Sec'y.*

Deposition of Feliciano Soberanes.

OFFICE OF THE BOARD OF COMMISSIONERS, &c., &c.

This day, before Com'r R. Aug. Thompson, came Feliciano Soberanes, a witness on behalf of claimants, W. S. Johnson *et al*, No. 567, who, after being duly sworn, deposed as follows:

Testimony on behalf of claimant.

Present: Crittenden, att'y for claimant, and Greenhow, associate law agent.

Witness states his name to be Feliciano Soberanes; age, sixty-five years; residence, Monterey co., California; has resided in California since his birth.

Question by claimants' att'y. Do you know the rancho called Pleyto, claimed in this case; if so, state where it is situated, and all you know in relation to the occupation and improvement of the same by Thomas Soberanes?

Answer. I know said rancho, it is situated in the county of Monterey, adjoining the rancho of Mariano Soberanes, called "Ojitos," and by the river called Nacimiento. Thomas Soberanes bought it in 1845 from Antonio Chavis. Immediately after the purchase, Soberanes went upon the land, built a new house, and repaired the old ones formerly belonging to the mission, and stocked it with cattle and horses, and lived on it. He cultivated portions of the land. He continued to live there about a year. Afterwards, it was occupied by his brothers for him, until his death. After his death, his brother Guadelupe continued the occupation until he sold it to the present claimants.

Question by same. Do you know the southern boundary of Los Ojitos, which also bounds the rancho claimed in this case? if so, describe it.

12 Answer. I know said boundary; it crosses the San Antonio river at or near a point known as El-Imuér Passo de San Antonio; said passo or ford is a well known point, and the name of it is an ancient one.

Question by same. Does any stream running along the southern boundary of this rancho; if so, what is it called?

Answer. There is such a stream on said boundary; it is called the Nacimiento.

(Signed) FELICIANO SOBERANES.

Sworn to and subscribed before me, Nov. 5, 1853.

(Signed) R. AUG. THOMPSON, *Com'r.*

Filed in office November 5, 1855.

(Signed) GEO. FISHER, *Sec'y.*

13 *Copy of espediente de title.*

1845.

Expediente promovido por Don Antonio Chaves la pretencion del terreno llamado "El Pleyto."

E. S. GOBERNADOR: Antonio Chaves, Mejicano por nacimiento y becino de la jurisdiccion de Monterey ante V. E. con el debido respeto

y como mas halla lugar en derecho parisco y digo; que teniendo comprado algunos bienes de campo sur contar con un terreno en que poner los para su adelanto, hé de merecer de V. E. me conceda el parage nombrado Pleyto que se halla baldio en terreno del establecimte. de San Antonio en estencion de tres sitios de ganado mayor poco mas ó menos. Colindando por el oeste con el primero paso del Rio lindero del terreno de Dn. Mariano Soberanes, y porel numbo opuesto con el Nacimiento, y por los dos lados restantes sin perjudicar de propiedad particular. A cuyo efecto. Acompano el diseño respectivo.

P. F V. E. Suplico se digne admitir esta en papel comun por no haber del sellado correspondte. y provur, en mi favor de lo cual recivire reconocido.

Jurando, &ca.

ANGELES, *Juno* 23 *de* 1848.

ANTONIO CHAVES.

El ciudadano Pio Pico, Gobernador Interimo del Departamento de los Californias:

Por cuanto Dn. Antonio Chabes he pretendido para su benificio personal, y el de su familia el terreno conocido con el nombre de Pleito, demarcado el diceño que acompaño á su solicitud. Colindante con las tierras de Don Mariano Soberanes y con el Nacimiento y
14 tierras baldios practicados previamente las diligencias y averiguaciones consernientes segun lo dispuesto por leyes y reglamentos; mando de las facultade que me son conferidas á nombre de la nacion Mejicana he venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras, sujetandose á las condiciones siguientes.

1o. Podra sèrcado sur perjudicar las travasias Caminos y Servidumbres; lo disfrutaro libre y esclucivamente destinando lo al uso ó cultivo que mas le acomode pero dentro de un año lo habitaré y cultivará.

2o. Solicitara del juez respetivo que le dara posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra á mas de los mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

3o. El terreno de que se hace donacion es detres sitios de ganado mayor poco mas ó menos segun esplica el deseño respectivo.

En consecuencia mando que serviendole de titulo el presente y teniendose por firme y valedero, se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en la ciudad de los Angeles á diez y ocho de Julio de mil ocho cientos cuarenta y cinco.

Queda tomada razon de este titulo en el libro respectivo.

ANGELES, *Mayo* 8 *de* 1846.

Dado cuenta en sesion de hoy en este espediente á la Exma. Asamblea Departamental y lo mando pasar á la comision de terrenos valdios.

PIO PICO.

AGUSTIN OLVERA.

SEÑOR: La comision de terrenos valdios se ha impuesto del antesedente expediente promovido por el C. Antº. Chaves del parage, conocido con el nombre del Pleito que le fue concededo pr. el Supt. Gobierno Departantal. constra 18 de Julio, del año pº. prº. la comision arrinte que no constan en el espediente los informes
15 que son de estilo de comision y toma de Razon, no duda por esto la comision que el gobierno al mandado estender lo habia concepto de haberse corrido los tramites de estilo que otra parte en este parage al pleito habia una casa bastante regular perteneciente á la Micion de S. Antonio, que sur duda es lo que se vé en el diseño q. presenta el interesado de lo que se hubiera hecha mencion en las diligencias ò informes respectivos.

En este concepto la comision lo hare presente en este dietamen, y asi mismo pone á la deliberacion de V. E. la proposicion siguiente.

El Gobierno Departamental dispondea el y el presente espediente pasé á las autoridades de aquella jurisdiccion á informe y al encargado de la de S. Antonio pª que dega el estado en que se haya la casa fuerra al tiempo de su concesion y pa su abaluo respectivo é indemnisacion Aquella Comunidad, pa evitar entonces en lo relativo á este espediente pa que evacuado asi pueda recan la aprobacion respectiva.

Sala de Comª. en la ciudad de los Angeles, Junio 10 de 1846.

S. ARGUELLO.

[Here follows a map or plan.—Original page 16.]

17 *Office of the surveyor general of the United States for California.*

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my charge and custody a portion of the archives of the former Spanish and Mexican Territory or department of Upper California, do hereby certify that the eight preceding and hereunto annexed pages of tracing paper, numbered from one to eight inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents now on file and forming part of the said archives in my office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal (not having a seal of office,) at the city of San Francisco, this sixteenth day of October, A. D. 1851.

SAMUEL D. KING,
Survey G'l Cal.

Filed in office Feb'y 9th, 1853.

GEO. FISHER, *Sec'y.*

18 *Translation.—Espediente.*

MOST EXCELLENT SEÑOR GOVERNOR: I, Antonio Chaves, a Mexican by birth and a resident of the jurisdiction of Monterey, with due respect, and as the law may best allow me, appear before your excellency and say, that having purchased some cattle and horses, and having no land to put them on that they may increase, I request your

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excellency would grant me the place called Pleyto, which lies vacant in the land of the establishment of San Antonio, of the extent of three square leaques, (tres sitios de ganado mayor,) a little more or less, bounded on the west by the first pass of the river, the boundary of Don Mariano Soberanes's land, and in the opposite direction by the Nacimiento, and by the two remaining sides without prejudice to private property; to which effect I accompany the respective plat.

I therefore beg that your excellency would be pleased to admit this petition on common paper, there being none of the proper seal, and decree in my favor, for which I will live grateful, swearing, &c., &c.

ANGELES, *June* 23*d*, 1845.

(Signed) ANTONIO CHAVES.

Citizen Pio Pico, governor ad interim of the department of the Californias:

Whereas Don Antonio Chaves has solicited for his personal benefit and that of his family the land known by the name of Pleyto, delineated on the plot which accompanies his petition, bounded by the lands of Don Mariano Soberanes, the Nacimiento, and vacant lands, the necessary steps and investigations having been previously taken and made in conformity with the requirements of laws and regu-
19 lations, I have by virtue of the powers conferred upon me granted unto him said land in the name of the Mexican nation, declaring unto him the ownership thereof by these presents letters, subject to the following conditions:

1st. He may surround it without prejudice to the crossings, roads, and privileges; he shall enjoy it freely and exclusively, destining it to the use or cultivation which may best suit him, but within one year he shall inhabit and cultivate it.

2d. He shall request the respective justice to give him juridical possession thereof; in virtue of this title said justice shall designate the boundaries; at the limits whereof the grantee shall, besides placing his landmarks, plant some fruit trees or wild ones of some utility.

3d. The land whereof donation is made consists of three square leagues, (tres sitios de ganado mayor,) a little more or less, as appears by the respective plat.

I consequently command that these presents serving him for a title be held as firm and valid, be recorded in the respective book, and be delivered to the party interested for his security and further end.

Given at the city of Los Angeles on the eighteenth of July, eighteen hundred and forty-five.

A copy of this title has been made in the respective book.

ANGELES, *May* 8, 1846.

In to-day's session this espediente was laid before the most excellent departmental assembly, and it was ordered to be referred to the committee on vacant lands.

(Signed) PIO PICO, *President.*

(Signed) AGUSTIN OLVERA,
Member of the Assembly and Secretary.

20 SIR: The committee on vacant lands has examined the foregoing espediente commenced by citizen Antonio Chaves, respecting the place known by the name of Pleyto, which was granted to him by the superior departmental government on the 18th of July of last year.

The committee remarks that there do not appear in this espediente the customary report on the petition, followed by the title of concession and record; nevertheless, the committee does not doubt but that when the government ordered said title to be made out, it did so in the supposition that the necessary proceedings had been complied with; besides this, there was in the said place of the Pleyto a pretty good house belonging to the Mission of San Antonio, which, without doubt, is the one which appears on the plat presented by the party interested, which would have been mentioned in the respective proceedings and reports. In this belief, the committee mentions it in this report, and at the same time offers to the deliberation of your excellency the following proposition:

The departmental government will order the present expediente to be remitted to the authorities of that jurisdiction to be reported on, and to the person in charge of San Antonio, in order that he may say in what condition that house was in at the time the grant was made, so that it may be valued, and that community be indemnified, to avoid questions relative to the espediente, to the end that after these proceedings are concluded, the respective approval may be given.

Committee chambers, in the city of Los Angeles, June 10, 1846.

(Signed) S. ARGUELLO.

21 I, the undersigned, do hereby certify the foregoing to be a true and faithful translation of a fac-simile of the original, certified to on the 16th of October, 1851, by Samuel D. King, esq., United States surveyor general for California.

(Signed) W. E. P. HARTNELL,
State Translator.

STATE TRANSLATOR'S OFFICE,
Patrocinio, 12th December, 1851.

Filed in office February 9, 1853.

(Signed) GEO. FISHER, *Sec'y.*

22 *Doc. H. H., No.* 1. *Annex to the depo. of M. Soberanes, taken before Hiland Hall.*

DEPARTAMENTO DE LOS CALIFORNIAS.

Por cuanto Don Antonio Chaves he pretendido para su beneficio personal y el de su familia el terreno conosido con el nombre de Pleyto, demarcado en el deseño que acompaño a su solicitud, colindante con las tierra de Don Mariano Soberanes, y con el Nacimiento, y tierras baldias, practicadas previamente los diligencias y averiguaciones concermentes, segun lo dispuesto por leyes y neglamentos; usando de los facultades que me son conferidas a nombre de la nacion Mejicana, he venido la concederle el terreno mencionado declarandole

la propiedad de el por las presentes letras sujetandose a las condiciones sig'tes.

1ª. Podra cercarlo sur perjudicar las travesias caminos y servidumbres; lo disfrutara libra y esclusivamente destinandolo al uso ó cultivo que mas le acomode pero dentro de un año lo habitara y cultivara.

2°. Solicitira del juez respectivo que le dé la posecion juridica en virtud de este despacho por el cual de demarcaran los linderos en cuyos limites pondra á mas de las majoneras algunos arboles putales ó silvestres de alguna utilidad.

3°. El terreno de que se hace donacion es de tres sitios de ganado mayor poco mas ó menos segun esplica el deseño respectivo.

En consecuencia mando que servicadole de titulo el presente y temendose por firme y valedero se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en la ciudad de los Angeles a diez y ocho de Julio de mil ochocientos cuarenta y cinco.

PIO PICO.
JOSÉ MA. COVARRUBIAS, *Srio.*

Queda tomado razon de este superior despacho en el libro respectivo.

23 ANGELES, fecha ut supra.

COVARRUBIAS.

Received for record 24th September, 1851, at 3.30 p. m. Recorded in deeds of grant C, page 54.

P. K. WOODSIDE,
Co. Recorder, Monterey.

Filed in office Feb'y 16, 1853.

GEO. FISHER, *Sec'y.*

24 *Translation of grant.*

The citizen, Pio Pico, governor ad interim of the department of the Californias:

Whereas Don Antonio Chaves has solicited, for his personal benefit and that of his family, the land known by the name of Pleyto, delineated on the plat which accompanies his petition, bounded by the lands of Don Mariano Soberanes, the Nacimiento, and vacant lands, the necessary steps and investigations having been previously taken and made in conformity with the requirements of laws and regulations, I have, by virtue of the powers conferred upon me, granted unto him said land in the name of the Mexican nation, declaring unto him the ownership thereof by these letters:

1st. He may surround it, without prejudice to the crossings, roads and privileges; he shall enjoy it freely and exclusively, destining it to the use or cultivation which may best suit him, but within one year he shall inhabit and cultivate it.

2d. He shall request the respective justice to give him juridical possession thereof in virtue of this title; said justice shall designate the

boundaries at the limits. Whereof the grantee shall, besides placing his landmarks, plant some fruit trees, or wild ones of same utility.

3d. The land whereof donation is made consists of three square leagues, (tres sitios de ganado mayor,) a little more or less, as appears by the respective plot.

I consequently command that these presents, serving him for a title, be held as firm and valid, be recorded in the respective book, and be delivered to the interested party for his security and further ends.

Given in the city of Los Angeles, on the eighteenth of July, one thousand eight hundred and forty-five.

(Signed) PIO PICO.

(Signed) JOSÉ MA. COVARRUBIAS,
Secretary.

A copy of this title (superior dispatch) has been made in the respective book.

ANGELES, (date above.)

(Signed) COVARRUBIAS.

Received for record 24 September, 1851, at 3.30 p. m. Recorded in deeds of grants C, page 54.

(Signed) P. K. WOODSIDES,
County Recorder, Monterey Co.

26 *Doc. H. H., No. 2.—Annex to the depo. of M. Soberanes, taken before Com Hiland Hall.*

Sello Cuarto dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maritima del Puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA. [SEAL.]
PUEBLO DE LA GUERRA.

En el Puerto de Monterey de la Alta California a los diez y ocho dias, del mes de Agosto de año de mil ochocientos cuarenta y cinco, ante mi Francisco Araiha alcalde segundo constitutional y primero ynterino de esta demarcacion y ante los testigos de assistencia con quienes setiro en la forma establecido á mas de los instrumentales de que el fin se hara mencion parecio de presente Don José Ant. Chaves cuyo persona doy fé lonoseo y digo; que por si y á nombre de sus heuderos y sucesores y de quien de ellos hubrese titulo voz y forma en cual esquera manera hace sesion solemne, publica y perpetua a Dⁿ. Tomas Soberanes, que tambien doy feé conoseo del derecho que le asiste en el terreno conocido con el nombre de Pleito para que lo posea y sea reconocido como propiedad sulla firme, perpetua y valedera sin que nadie pueda enturrumpuse en su posecion, declarando como de-

clara no tenerlo, vendido, enagenado ni empenado gravamen publico, perpetuo, temporal, especial. General, tacito ó espusá, y como tal se lo cede al referido Don Tomas Soberanes para cuya efecto renuncia la ley cuarta titulo secte libro, quinto de la recapilacion y las, demas que ablan de la lecion en mas o menos de la mitad del justo precio y los cuatro años que pujizan para pedir su recession ó suplemento los que da por citados y desde hoy, en adelante se disprende para siempre del dominio ó secion titulo, recurso ó otro cuales quiera derecho que se competa al enunciado terreno, y lo renuncia y traspasa en poder
del ya espresado Señor Soberanes confirmidore poder irrevocable
27 con libre franca y general administracion para que de su autoridad aprerida la tenenciá y posecion pacificá. Yn la observancia de todo lo referido obliga sus bienes presentes y futuros, y con ellos se somete al fuero y jurisdicion de los Señores Jueces que de sus causus puedan y deban conocer conforme á derecho para que á su complimiento lo compelan y apremien como por setencia definitiva consentida y pasada, en autoridad de Cosa Jusgada. Ceumcio las leyes de su favor y la general del derecho en toda forma al mismo tiempo agregar á la presente escritura el titulo de concesion que tiene dado por el Supt. Gobierno de este Departamento ó igualmente el diseño que Ambos Cosas doy fé haber visto.

En cuyo testimonio en lo otorgo y firmo commigo y los de assistencia, siendo los instrumentales Dn. José Abrego, Dn. Rafael Gonzales, y Dn. Pedro Narvaez presentes y Vecinos que doy feé.

JOSÉ A. CHAVES.

FRANCISCO AZIRCHA.

De assa.: ANTONIO GOMEZ.

De assa.: YZNACIO ESQUIER.

Received for record 24th September, 1851, at 3.30 p. m. Recorded in conveyance "A," page 291.

K. WEAMPOLE,
C. Recorder, Monterey Co.

Filed in office Feb'y 16, 1853.

GEO. FISHER, *Sec'y.*

28 *Translation of deed from José Anto. Chavis to Tomas Soberanes.*

Fourth seal.—Two reales.

Provisionally supplied by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

(Signed) MICHELTORENA.
(Signed) PABLO DE LA GUERRA.

[SEAL] In the port of Monterey of Upper California, on the 18th day of the month of August of the year 1845, before me, Francisco Araiza, second constitutional alcalde, and formerly first (alcalde) of this place, and before the assisting witnesses, with whom I act in the established form, and of the parties, (instrumentales of whom

hereinafter mention will be made, appeared present Don José Antonio Chavis, personally known to me, and says: That in his own name and that of his heirs and successors, and any of them having voice, interest and repute in any manner whatever, he makes grant (hace secion) solemnly, publicly, and forever, to Don Tomas Soberanes, also known to me, of the right which is vested in him (q le aseste) in the land known by the name of (Pleito,) that he may possess it, and that it be recognized as his property, secure, perpetual and binding, (valedera) besides which that no one can interfere with him in the possession thereof, declaring as he does that he has neither heretofore sold, alienated, nor mortgaged the same, and that it is free from all incumbrances, (gravemen) public, perpetual, temporary, special, general, implied, or expressed, and as such he grants it (se lo cede) to the said Don Tomas Soberanes, for which purpose he renounces the 4th law, 7th title, 5th book, of the collection of laws, (recopilacion,) and of such others as speak of the grant in more or less than half of the just price. And the four years during which a grant so made may be in demand annulled, which (time) is hereby considered as passed,
29 and from to-day in future he dispossesses himself forever of the ownership, or grant, title, recourse, or whatever other right he may have claim to in the said land, and he renounces and transfers it to the possession (poder) of the said Soberanes, conferring upon him irrevocable power with free, liberal, and general administration, in order that of his own authority he may acquire the occupation and possession that of right belongs to him, the Señor Chavis obliging himself to the effect that this grant is certain, sure and effective, that no person shall distrust him nor institute such in law; and in case otherwise, that he will defend him until he is left in peaceable possession, and to the observance of all the foregoing he holds liable his present and future property, and with them submits himself to the power and jurisdiction of the justices who can and ought take cognizance thereof according to law, in order that to their fulfilment they may compel and oblige him as if by final sentence agreed upon and executed in authority of a suit adjudicated, he renounces the laws in his favor and the general law of right in every form, at the same time he aggregates to this document the title (or grant) titulo de concession, that was given him by the supreme government of this department, and also the map, which two documents were seen by me.

In testimony whereof, thus it was contracted (or covenanted) otorgo and signed with me and the assistance, there being Don José Alvezo, Don Rafael Gonzales, and Don Pedro Narvaez, present inhabitants, to whom I give credence.

(Signed) FRANCO. ARAIZA.

De assa, (assistants:)
(Signed) ANTONIO GOMEZ.
De assa, (assistants:)
(Signed) YGN° ESQUIER.

Received for record 24th Sept., 1851, at 3.31 p. m. Recorded in conveyances "A," page 291.

(Signed) P. K. WOODSIDE,
Co. Recorder, Monterey Co.

30 *Exhibit No.* 3, *A. F., annex'd to depo. of W. E. P. Hartnell.*

Habiendo fallecido mi hijo Tomas Soberanes al intestato soy yo el abajo firmado padre del finado su legitimo hendero segun derecho y por lo tanto todos sus bienes me pertenecea. Entre estos está comprendido at rancho el "Pleito" como se puede ver por los titulos que se acompañan el cual cedo contodos los derechos que sobre el tengo a mi hijo Guadelupe Soberanes sus herederos y sucesores para siempre y para que nadie le ponga distaculo ni lo moleste en la posesion, doy el presente documento firmado con mi propio mano la Monterey á 14 de Febrero de 1850.

MARIANO SOBERANES.

Jusgado de Monterey ante mi.

MARIANO MALARIN,
Juez de 1ª Instancia.

Los que subscrimos hijos de Don Mariana Soberanes damos muestro pleno consentimiento para la donacion que hace nuestro padre, y se espresa en este documento, á fui de que les sea á nuestro hermano Guadelupe Soberanes, firmé, segura y valedera la posesion del rancho del Pleito, la cuyo testimonio asi lo otorgamo, y firmamos hoy catorce de Febrero del año de mil ochocientos cincuenta.

MARIANO SOBERANES.
JOSE YGNACIO SOBERANES.
VICTOR SOBERANES.
JUAN SOBERANES.
ESEQUIEL SOBERANES.

STATE OF CALIFORNIA, *County of Monterey:*

On this 31st day of August, A. D. 1853, personally appeared before me, a notary public in and for said county, Mariano Soberanes, to me personally known, who acknowledged that he executed the foregoing instrument on the first page of this sheet freely and voluntarily, and for the uses and purposes therein mentioned.

D. R. ASHLEY,
Notary Public.

Filed in office Feb'y 16th, 1853.

GEO. FISHER, *Sec'y.*

31 *Translation of deed. Mariano Soberanes to his son, Guadelupe Sobernes, 14th Feb.*, 1850.

My son, Thomas Soberanes, having died intestate, I, the undersigned, father of the deceased, his legitimate heir by law, and, as such, his property belonging to me. Among this is comprised the ranch of the Pleito, as can be seen by the title which accompany, which I cede, with all the right which I have to the same, to my son, Guadelupe Soberanes, his heirs and assigns forever. And in order

that none may place obstacles or molest him in his possession, I give the present document, signed with my own hand, in Monterey, on the 14th February of 1850.

(Signed) MARIANO SOBERANES.

Court-house of Monterey, before me.

(Signed) MARIANO MALARIN,
Judge of 1st Instance.

We, the undersigned, sons of Don Mariano Soberanes, give our full consent to the gift which our father makes and this document expresses, in order that to our brother Guadelupe Soberanes the possession of the rancho of the Pleito may be secure, safe, and effective.

In testimony whereof, we thus stipulate and sign, this fourteenth day of February, of the year one thousand eight hundred and fifty.

(Signed) MARIANO SOBERANES.
(Signed) JOSE YGNACIO SOBERANES.
(Signed) VICTOR SOBERANES.
(Signed) JUAN SOBERANES.
(Signed) ESEQUIEL SOBERANES.

STATE OF CALIFORNIA, *County of Monterey, ss:*

32 On this 31st day of August, A. D. 1852, personally appeared before me, a notary public in and for said county, Mariano Soberanes, to me personally known, who acknowledged that he executed the foregoing instrument on the first page of this sheet freely and voluntarily, and for the uses and purposes therein mentioned.

[SEAL.] (Signed) D. R. ASHLEY,
Notary Public.

33 *Conveyance—Thomas Soberanes to William J. Johnson, Preston K. Woodsides.*

This indenture, made and entered into at the city of Monterey, State of California, this twenty-fourth day of September, A. D. one thousand eight hundred and fifty-one, between Tomas Soberanes, of the township of San Antonio, county of Monterey, and State aforesaid, of the first part, and William S. Johnson and Preston K. Woodsides, of the city of Monterey aforesaid, of the second part—

Witnesseth that the said Tomas Soberanes, for and in consideration of the sum of two thousand one hundred and ninety-three dollars and sixteen cents ($2,193 16) to him in hand paid by the said parties hereto of the second part, the receipt of which sum he doth hereby acknowledge and forever acquit the said parties hereto of the second part, hath granted, bargained, sold, and conveyed, and by these presents doth grant, bargain, sell, and convey unto the said parties hereto of the second part, and unto their heirs and assigns all that the rancho or farm known by the name of "Pleito," situated in the valley of the Salinas, county of Monterey, adjoining the rancho of Don Mariano Soberanes and the Nacimiento, and of the extent of three

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Spanish leagues of land, (tres sitios de ganado mayor,) little more or less, the exact extent thereof being more fully known by reference to the map of the same, which accompany the record thereof in the government archives; the same rancho or farm having been devised to the said Tomas Sanchez from José Antonio Chaves, by deed dated 18 August, 1845, and duly recorded; and to the said Chaves from Pio Pico, (gobernador enterino de las Californias,) by deed of grant dated 18th July, 1845, and on record in the government archives.

Together with all the houses, out-houses, corrals, bridges, ways, woods, waters, watercourses, and all and every the rights, privileges, and appurtenances thereunto belonging or in anywise appertaining.

To have and to hold the same unto the said parties hereto of the second part, and their heirs and assigns forever; and the said Thomas Soberanes, for himself, his heirs, executors, administrators,
34 and assigns, doth hereby covenant, promise, and agree to and with the said parties hereto of the second part, their heirs and assigns, that he is lawfully seized in and possessed of the said rancho or farm and appurtenances, and has good power and lawful authority to sell and transfer the same; that the said rancho or farm is not encumbered or mortgaged in any manner or form whatever. And he, by these presents, covenants for himself, his heirs, executors, and administrators to warrant and defend the same to the said parties of the second part, their heirs and assigns, in their title thereto, from and against the legal claims of any person or persons whatever claiming, or to claim the same, or any part thereof.

In testimony whereof the said Tomas Soberanes, party hereto of the first part, hath hereto set his hand and seal the day and year first aforesaid.

(Signed) TOMAS G. SOBERANES. [SEAL.]

Signed, sealed, and delivered in presence of ———; the word "first" erased, and the word *second* interlined over the same before execution.

(Signed) D. R. ASHLEY.
(Signed) JAMES STAKES.

STATE OF CALIFORNIA, *County of Monterey, ss:*

On this 24th day of September, A. D. 1851, personally appeared before me, a notary public in and for said county, Tomas G. Soberanes, to me known to be the person described in, and who executed the above and foregoing conveyance, who acknowledged that he made and executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

[SEAL.] (Signed) D. R. ASHLEY,
Notary Public.

Filed in office February 16, 1853.
(Signed) GEO. FISHER, *Sec'y.*

[REC. CCXCV, D. T. 1861.]—2

35 *Conveyance—Tomas G. Sanchez to Preston Woodside, William S. Johnson.*

This indenture made and entered into at the city of Monterey, State of California, this twenty-first day of October, A. D. one thousand eight hundred and fifty-one, between Tomas Guadelupe Soberanes, of the township of San Antonio, county of Monterey, and State aforesaid, of the first part, and William S. Johnson and Preston K. Woodsides, of the city of Monterey aforesaid, of the second part. Whereas, the said Tomas Guadelupe Soberanes did, by conveyance dated 24th September, 1851, convey to the party of the second part the hereinafter described property, and having been derived to him by José Antonio Chaves, by deed dated 18th August, 1845: And whereas, the said Tomas Guadelupe Soberanes did not, at the time of executing the said deed, perfectly understand that portion thereof in which it is stated that the property so hereinafter described was derived to him from the said José Anto. Chaves. And the said property so conveyed, not having been directly derived to the said Tomas Guadelupe Soberanes from the said José Antonio Chaves, but to one Tomas Soberanes, who died in the year 1848, in Sonoma, California, intestate, and whose father, and sole heir-at-law, Mariano Soberanes, having transferred to the said Tomas Guadelupe Soberanes, under the name only of "Guadelupe Soberanes," the said property so hereinafter described and hereinbefore referred to by deed dated 14th February, 1850; he, the said Tomas Guadelupe Soberanes, the better to secure to the said parties hereto of the second part, in their title to the said property so hereinafter described, has determined to give them this, the second deed of transfer of the said property, with the aforesaid explanation of the derivation and ownership by him.

Now this indenture witnesseth, that the said Tomas Guadelupe Soberanes, for the consideration expressed in the aforesaid deed of conveyance, expressed in the aforesaid deed of conveyance, of the 24th day of September, 1851, and for the further consideration of one dollar, the receipt of which is hereby expressly acknowledged, hath granted, bargained, sold and conveyed, and by these presents doth grant, bargain, sell and convey unto the said parties of the second part,
36 and their heirs and assigns forever, all that the rancho or farm known by the name of Pleyto, situated in the valley of the Salinas, near San Antonio Mission, Monterey county, adjoining the rancho of Don Mariano Soberanes and the river Nacimiento, and of the extent of three Spanish leagues of land, (tres sitios de ganado mayor,) little more or less; the exact extent thereof being more fully known, and the boundaries delineated, by reference to the map of the same, which accompany the record thereof in the archives of the government; the said rancho, or farm, having been derived to the said Tomas Guadelupe Sanchez, under the name of Guadelupe Soberanes, as before said, from Mariano Soberanes, the father and sole heir-at-law of Tomas Soberanes, deceased, by deed dated 14th February, 1850; the same was derived to the said Tomas Soberanes, deceased, from the said José Anto. Chavis by deed dated 18th August, 1845, and was derived to the said José Antonio Chaves from Pio Pico, (go-

bernador enterino de los Californias,) by deed of concession, dated July 18. 1845, and on record in the said government archives.

To have and to hold the said rancho, or farm, together with all houses, out-houses, corrals, bridges, ways, woods, waters, watercourses, and all and every, the rights, privileges, and apurtenances thereunto belonging, or in anywise appertaining unto the said parties of the second part, their heirs and assigns, to their sole and absolute use and disposal forever.

In testimony whereof the said Tomas Guadelupe Soberanes hath to this second and additional deed of conveyance to the said parties of the second part of the ranch, or farm, and appurtenances, hereinbefore described, set his hand, and affixed his seal the day and year first aforesaid. (Signed)

T. GUADELUPE SANCHEZ.

STATE OF CALIFOFNIA, *County of Monterey, ss:*

37 On the 21st day of October, A. D. 1861, personally appeared before me, a notary public in and for said county, T. Guadelupe Soberanes, to me known to be the person described in, and who executed, the foregoing conveyance, who acknowledged that he executed the same freely and for the purposes therein mentioned, and that he well understeod the same, it being an amended conveyance as therein stated.

[SEAL.] (Signed) D. R. ASHLEY,
Notary Public.

Filed in office February 16, 1853.
(Signed) GEO. FISHER, *Sec'y.*

38 *Opinion.*

W. S. JOHNSON *et al.*, *vs.* THE UNITED STATES. } For the place called "Pleyto," in the county of Monterey, containing three square leagues.

The claimants in this case has offered in evidence in support of his claim, a grant issued by Pio Pico, gobernor, on the 18th day of July, 1845, to one Don Antonio Chavis; also a deed of conveyance from the said Chaves to one Don Tomas Goberanes, bearing date the 28th day of August, 1845.

The place is described in the grant as being bounded by the lands of Don Mariano Soberanes, and by the Nacimiento and vacant lands, which constitutes the only description of the land intended to be granted, to be found in the proofs on file in the case. There is no proof of any juridical measurement or possession, nor any evidence of any segregation of the land, so as to enable this board to form any idea as to the boundaries or locality of the land for which the petitioners ask confirmation.

We are, therefore, of the opinion that the claim is invalid, and a decree adverse to the claim will be entered.

Rejected.

39 *Decree.*

W. S. JOHNSON *et als.*,
vs.
THE UNITED STATES.

On this case, on hearing the proof and allegations, it is adjudged by the commission that the claim of the petitioner is not valid, and it is therefore decreed that his application for a confirmation thereof be denied.

(Signed) ALPHEUS FELCH,
(Signed) R. AUG. THOMPSON,
(Signed) S. B. FARWELL,
Commissioners.

Filed in office, March 6, 1855.
(Signed) GEO. FISHER, *Sec'y.*

40 *Order.*

It appearing to the satisfaction of this board that the land adjudicated is situated in the southern district of California, it is hereby ordered—

That two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

41 *Office of the board of commissioners to ascertain and settle the private land claims in the State of California.*

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California do hereby certify the foregoing fifty-one pages, numbered from 1 to 51, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 567 on the docket of the said board, wherein W. S. Johnson *et al*, are the claimants against the United States for the place known by the name of Pleyto.

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, [L. S.] this twenty-first day of August, A. D. 1855, and of the independence of the United States of America the eightieth.

GEO. FISHER, *Sec'y.*

Filed Oct. 4th, 1855.

C. E. CARR, *Cl'k.*

42 *Appeal.*

In the district court of the United States for the southern district of California.

W. S. JOHNSON *et al.*, appellants,
vs.
THE UNITED STATES, appellees.

William S. Johnson and Preston K. Woodside, claimants of the rancho called "Pleyto," situate in the county of Monterey, in the southern district of the State of California, hereby give notice of their intention to prosecute an appeal from the decision of the board of U. S. land commissioners to ascertain and settle private land claims in the State of California, rendered on their claims for the said land, rejecting the same; said claim being numbered on the docket of said board, No. 567; the transcript whereof was filed in the office of the clerk of the district court of the United States for the southern district of California, is numbered 288.

AGUSTEN OLVERA,
Att'y for Appellants.

Filed Nov. 24, 1855.

C. E. CARR, *Clerk*,
By SAMUEL R. DUMMER, *Deputy*.

43 *Petition for review.*

In the district court of the United States for the southern district of California.

W. S. JOHNSON, *et als.*, appellants,
vs.
THE UNITED STATES, appellees.
No. 288. "Pleyto."

To the Hon. Isaac S. K. Ogier, district judge of the United States for the northern district of California:

Your petitioners, W. S. Johnson and Preston K. Woodside, residents of the county of Monterey, in said district, respectfully represent, that they were the claimants before the "board of United States land commissioners to ascertain and settle private land claims in the State of California," in case No. 567, for a tract of land situate in said county and district, containing three square leagues of land, a little more or less, and known by the name of Pleyto.

That said tract of land was granted to one Antonio Chaves by Pio Pico, then constitutional governor of California, by virtue of authority in him vested, on or about the 18th day of July, A. D. 1845, and that the title and claim to said land is now, and was at the time of the presentation of their petition to the said board of land commissioners, vested in your petitioners, as more fully appears by said petition, a copy of which is contained in the manuscript on file in this case and made a part of this petition.

And your petitioners further represent, that the said land has been occupied and cultivated by the said Antonio Chaves and his assigns, from the time of said grant up to the time of filing their said petition.

Your petitioners further represent, that on the hearing of the said claim by the said commissioners, the same was rejected and declared to be invalid. That a transcript of the proceedings of the said
44 commissioners, and of the documentary evidence and testimony of the witnesses in said case, was duly filed with the clerk of this court on the 4th day of October, A. D. 1855, and that on the 24th day of November, A. D. 1855, the said claimants filed in the office of said clerk a notice of their intention to prosecute an appeal from the decision of said commissioners to this court.

Your petitioners therefore pray that this honorable court will review the decision of the said commissioners and decide on the validity of said claim, and decree the same to be good and valid, and for such other or further relief in the premises as shall seem consistent with law and equity.

MYRON HORTON,
Att'y for Appellants.

Filed this 12th January, 1857.

C. SIMS, *Cl'k*,
By J. H. COLEMAN, *Dep't.*

45 *Summons.*

UNITED STATES OF AMERICA,
Southern District of California, ss:

The President of the United States to P. Ord, esq., U. S. att'y, greeting: Take notice, that a petition, a copy of which is herewith served upon you, has been filed against the United States in the district court of the United States in and for the southern district of California, on the 12th day of January, in the year of our Lord one thousand eight hundred and fifty-seven, at the city and county of Los Angeles, in said district, by W. S. Johnson *et al.*, praying said court to review the decision of the United States land commissioners, of the 6th of March, A. D. 1855, rejecting their claim to the lands called "Pleyto," in the county of Monterey; and that you are required to appear at said court, in said city, within ten days after the service hereof, if served on you within the county of Los Angeles, and within twenty days if served on you in the county of San Diego or San Bernardino, and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or the petitioner will apply to the court for the relief demanded therein.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at the city of Los Angeles, this 12th day of January, A. D. 1857.

[SEAL.]

C. SIMS, *Clerk*,
Per J. H. COLEMAN, *Deputy.*

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Received Jan'y 12th, 1857.

EDWARD HUNTER,
U. S. Marshal,
Per M. S. GOODMAN, *Deputy.*

46 I served this summons, together with a certified copy of the petition, upon P. Ord, U. S. att'y, by delivering to him personally a true copy of same, at Los Angeles in the southern district of California, on the 12th day of January, A. D. 1857.

EDWARD HUNTER,
U. S. Marshal.

Sworn to and subscribed before me this 12th January, 1857.

C. SIMS, *Clerk,*
Per J. H. COLEMAN, *Deputy.*

Filed on return, this 12th January, 1857.

C. SIMS, *Clerk,*
Per J. H. COLEMAN, *Deputy.*

47 *Answer of U. States.*

In the district court of the United States for the southern district of California.

Hon. ISAAC S. K. OGIER, *Judge.*

W. S. JOHNSON *et al.*, appellants, *vs.* THE UNITED STATES, appellees. } No 288. Trans. No. 567. Claim "Pleyto."

The answer of Cameron E. Thom, acting attorney of the United States for the southern district of California, for and in behalf of the United States, to the petition for review of said appellants, denies generally and specially each and every allegation in said petition contained; and he denies, further, that the said appellants have a valid title to the land claimed by them, and he prays that this hon. court will affirm the decision of the board of land commissioners rejecting said appellants' claim to said land, and decree their alleged title to be invalid, and general relief.

C. E. THOM,
Acting Attorney of the United States for the Northern District of Cal'a.

Filed January 13th, 1859.

C. SIMS, *Cl'k.*

48 *Submission.*

Whereupon the following proceedings were had in open court, to wit:

UNITED STATES DISTRICT COURT, SOUTH'N DIST. OF CAL'A.

December term, A. D. 1856.

LOS ANGELES, *January* 13*th*, 1857.

W. S. JOHNSON *et al.*, appellees,
vs.
THE UNITED STATES, appellants.
} No. 288. "Pleyto."

Now, on this day, come the parties aforesaid by their attorneys, the appellant, by C. E. Thom, acting U. S. dist. att'y, and the appellees by Myron Norton, esq., and after argument of counsel aforesaid, this cause was submitted to and taken under advisement by the court.

Decision.

UNITED STATES DISTRICT COURT, SOUTH'N DIST. OF CAL'A.

December term, A. D. 1856.

LOS ANGELES, *February* 9*th*, 1857.

W. S. JOHNSON *et al.*,
vs.
THE UNITED STATES.
} No. 288.

Now, on this day, the court delivered its opinion in the following cause, No. 288, confirming the claim of claimant in said cause, and a decree was ordered to be entered in conformity to said opinion, which is accordingly done.

49 *Decree.*

In the district court of the United States for the southern district of California.

December term, A. D. 1856.

W. S. JOHNSON *et al.*, appellants,
vs.
THE UNITED STATES, appellees.
} No. 288. "Pleyto."

This cause coming on to be heard on appeal from the final decision of the board of United States land commissioners, "to ascertain and settle the private land claims in the State of California," under an act of Congress approved March 3d, 1851, upon the transcript of the proceedings, papers, and evidence had and taken before the said board, and it appearing that the said transcript and a notice of the intention of the appellants to prosecute the said appeal have been duly filed with the clerk of this court.

And counsel for the respective parties having been heard—

It is ordered, adjudged, and decreed by the court, that the decision of the said commissioners be, and the same is hereby, reversed and set aside, and that the title of the said appellants, W. S. Johnson and Preston K. Woodside, to the lands claimed in this case be decreed to be good and valid.

The lands, of which confirmation is hereby made, are situated in the county of Monterey, and are known by the name of "Pleyto," being the same lands which were granted on the 18th of July, A. D. 1845, to Antonio Chaves by Pio Pico, then governor of California, and containing three square leagues of land, a little more or less, as explained by the map on file in this case; reference being had to said map for a more particular description of the land hereby confirmed.

ISAAC S. K. OGIER,
U. S. Dist. Judge.

Filed Feb'y 9th, 1857.

C. SIMS, *Cl'k.*

50 *Motion for leave to appeal.*

Whereupon the following proceedings were had in open court, to wit:

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF CAL'A.

December term, A. D. 1857.

LOS ANGELES, *March* 15, 1858.

W. S. JOHNSON *et al.*, *vs.* THE UNITED STATES. } No. 288.

On motion of E. J. C. Kewen, act'g U. S. dist. att'y, for leave to take appeal in this cause, the same is taken under advisement.

Withdrawal of motion for appeal.

UNITED STATES DISTRICT COURT, SOUTH'N DIST. OF CAL'A.

December term, A. D. 1858.

LOS ANGELES, *December* 7, 1858.

W. S. JOHNSON *et al.*, *vs.* THE UNITED STATES. } No. 288.

Now, on this day, comes J. R. Gitchell, U. S. dist. att'y, and moves the court to withdraw the motion heretofore made and filed to appeal this cause, which motion being heard by the court is granted, and the said motion heretofore filed is, and the same is hereby, withdrawn.

51 UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF CAL'A.

December term, A. D. 1861.

LOS ANGELES, *December* 9, 1861.

W. S. JOHNSON, appellants,
vs.
THE UNITED STATES, appellees. } No. 288. "Pleyto."

And now comes J. R. Gitchell, esq., appointed at the request of the court to act in behalf of the United States, (there being no U. S. dist. att'y present,) and moves the court that an appeal be allowed the U. S. in this case, to the Supreme Court of the U. S., from the order and decree of this court heretofore rendered; which motion being heard, and by the court understood, is granted.

United States district court for the southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, John O. Wheeler, clerk of the district court for the southern district of California, do hereby certify the foregoing fifty-one pages, numbered from 1 to 51, both inclusive, to contain a full, true, and correct transcript of the record of the proceedings, and of the decision of said court, and of the documentary evidence and testimony of the witnesses upon which the same is founded, on file in my office in case No. 288, on the docket of said court, wherein W. S. Johnson *et al.* are the claimants against the United States for the place called Pleyto.

In testimony whereof, I have hereunto set my hand and affixed the [L. S.] seal of said court, at the city of Los Angeles, this, the 30th day of December, A. D. 1861.

JOHN O. WHEELER, *Clerk.*

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SUPREME COURT OF THE UNITED STATES.

No. 119.

December term, 1863.

STATEMENT AND ARGUMENT FOR THE UNITED STATES.

THE UNITED STATES, appellants, *vs.* WM. S. JOHNSON *et al.* } Appeal from the southern district of California.

This is a grant purporting to have been made on the 18th of July, 1845, by Gov. Pio Pico to Antonio Chaves, for three square leagues of land under the name of "Pleyto."

There are several objections to the confirmation of this grant.

1st. It appears to have been obtained by *a fraud* upon the Mexican government.

Antonio Chaves represents in his petition of July 23, 1845, "that *having purchased some cattle and horses*, and *having no land to put them on, that they may increase*, I request your excellency would grant me the place called Pleyto," &c.—(Printed Record, pp. 8, 9.) The grant purports to have been made July 18, 1845.—(Ib., p. 12.) On the 18th of August, 1845, *just one month afterwards, and before he had complied with a single condition of the grant*, the record shows that *he sold his interest in it to Thomas Soberanes.*—(Ib., p. 15.) The representation, therefore, upon which the grant was obtained, was *false. He did not need the land for the uses mentioned in his petition.*

2d. *The grant was not regularly made.* Although the grant states that "the necessary steps and investigations had been taken and made, in conformity with the requirements of laws and regulations," (*ib.*, p. 9,) yet, the expediente shows that there had been *no reference to the local authorities for information; no report thereon, and no concession; but a grant, in the first instance, with undue haste, and contrary to the usual practice of the government.*—(United States *vs.* Knight's Adm'r, 1 Black's U. S. R., pp. 242, 245–'6.) This fact is also proved by the refusal of the committee on vacant lands of the departmental assembly, June 10, 1846, to recommend the grant for approval. The committee recommends that the grant be referred back to the local authorities for information, before it shall be approved; (*ib.*, p. 10.)

Will this court do what the Mexican officials refused to do?

3d. *The grant is not legally authenticated by primary evidence; nor is any legal foundation laid for the introduction of secondary evidence of handwriting.* This is the more remarkable, as Gov. Pio Pico and José

Maria Covarrubias, whose names are signed to the grant, were both living, and were professional witnesses in these California land grants, easily to be had. The only evidence to authenticate the grant, (except the *unsigned* copy of it in the expediente,) is *evidence of the handwriting of the grantors.*—(Ib., p. 5.)

4th. *The evidence of the compliance with the conditions of the grant is very slight.* The land previously belonged to the mission of San Antonio. It had a house upon it previous to the grant, erected by the priests. There is no evidence that Chaves ever built upon it.—(See test. of Hartnell, *ib.*, p. 4.) Mariano Soberanes, the father of Chaves's grantee, swears that *Chaves* occupied the land, and that *he* occupied it under Chaves.—(Ib., p. 5.) Now we know, from the record and the evidence, that this cannot be true, because he swears Chaves did not occupy the land *before* the grant, and *only one month* elapsed between the grant to Chaves and the sale by Chaves to Thomas Soberanes, as we have already seen. The only evidence of occupation, improvement, and cultivation, relates to what was done by Thomas Soberanes *after* the sale to him.—(Ib., p. 6.) But there is no evidence of *continuous occupancy for one year* even by him. Hartnell swears that it was occupied by the brothers Soberanes "about the year 1846."—(Ib., p. 3.) Feliciano Soberanes swears, that Thomas Soberanes (Chaves's grantee) "continued to live there *about one year.* Afterwards it was occupied by his brothers for him until his death."—(Ib., p. 6.) He died in 1849.—(Test. of Mariano Soberanes, *ib.*, p. 5.) All the real occupancy of this land by any or all of the Soberanes is fully accounted for by the fact that the land of Don Mariano Soberanes, the father, adjoined the tract called "Pleyto."—(Test. of Feliciana Soberanes, *ib.*, p. 6.) This fact, together with the fact of the *immediate sale* of the land by Chaves to Thomas Soberanes, render it probable that the whole proceeding was only a *fraudulent* method of extending the boundaries of the land of the family of the Soberanes.

5th. *The claim of title of the present claimants from Thomas Soberanes downwards to themselves is defective and unsatisfactory.* By the death of Thomas Soberanes, the son, title is traced to the father, Mariano Soberanes. A deed is shown from the father to his son, *Guadelupe Soberanes.*—(Ib., pp. 15, 16.) Then a deed is shown from "*Tomas* Soberanes," in the body of the deed, to the present claimants.—(Ib., pp. 16, 17.) This deed, however, is *signed* and *acknowledged* by *Thomas G.* Soberanes. A subsequent deed, made to correct the errors of this last deed, only makes "the confusion worse confounded." It purports, in the body of it, to be made by Tomas Guadelupe Soberanes. It says, however, that the land was "devised to the said Tomas Guadelupe *Sanchez* under the name of *Guadelupe Soberanes*, as before said, from Mariano Soberanes, the father and sole heir-at-law of Tomas Soberanes, dec'd," &c.—(Ib., p. 18.) "In testimony whereof, the said Tomas Guadelupe Soberanes," &c. It is signed by "T. Guadalupe SANCHEZ, but acknowledged by "T. Guadelupe SOBERANES."—(Ib., p. 19.) "Guadelupe Soberanes," "Tomas Soberanes," "Tomas G. Soberanes," "Tomas Guadelupe So-

beranes," T. Guadelupe Sanchez," and "T. Guadelupe Soberanes," *may* all be the *same person;* but such a variety of names is not usual with *honest* people, and in a country like California, *is very suspicious*, to say the least. The fact of the *identity* of this many-named individual, with Guadelupe Soberanes, the son of Mariano Soberanes, and the *brother* of Victor Soberanes and others, (*ib.*, p. 16,) is not clearly shown, and, therefore, the present claimants have not traced title from the original grantee to themselves, in a manner legally satisfactory.

For these reasons this claim should be rejected by this court.

JOHN A. WILLS,
Special Counsel.
EDWARD BATES,
Attorney General.